

Testimony Brief for SWRCB Hearing, July 23, 2008

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(Resume attached)

IN THE MATTER OF SWRCB PROPOSED CEASE AND DESIST ORDER
AGAINST CALIFORNIA AMERICAN WATER IN VIOLATION OF ORDER 95-10
REGARDING OVERDRAFTING WATER FROM THE CARMEL RIVER

Testimony – In Support of a CDO

I have followed Monterey Peninsula water dynamics from 1998, and have been active since 2002. In 2001-2002, both California American Water (Cal Am) and Monterey Peninsula Water Management District (MPWMD) were discussing plans for a new desalination water supply to address Order 95-10.

I will testify to facts that Cal Am efforts for a new water supply have not been diligent. This inattention to the top priority forward-looking demand in 95-10 has resulted in unnecessary and irresponsible delays. Complicit in these delays have been Peninsula cities.

For six years, between 2002 and 2008, cities in the District have been complicit with Cal Am in efforts to halt a proposed MPWMD desal plan. Cal Am has demonstrated inattention to a new supply through complicity with cities to avoid the 95-10 requirement for “one for one reductions in unlawful diversions” in order to develop independent desals in two cities. The complicity and the misapplied discretion have soured interagency relationships, and the delay has increased costs.

1. Cities have been instrumental and complicit in misapplied diligence.
 - a. They spearheaded a ballot advisory vote in 2002 (Measure B) to dissolve MPWMD, after the District had begun to plan for a small desalination plant to address 95-10.
 - b. In 2003 the cities actively supported SB 149 (McPherson) to diminish MPWMD.
 - c. Two of the cities (Monterey and Sand City) initiated parochial efforts in 1998 to build small desal plants to outside the “1 for 1” replacement requirement imposed by 95-10.
 - d. At least since 1998, the Mayors Select Committee continues to be represented on the MPWMD by the Mayor of Sand City, presenting the appearance of repeated conflicts of interest.
2. Cal Am has wasted time and resources to diminish its competition with MPWMD, and in support of “non 95-10’ desals.

- a. It financially supported Measure B.
- b. It tried to convince Monterey County officials to overturn or change its ordinance (MCC 10.72) that requires desalination plants to be publicly owned.
- c. It has cooperated with the Cities of Monterey and Sand City to operate their desal plants outside the "1 for 1" replacement demands in 95-10.

These actions demonstrate Cal Am's lack of diligence, misapplied discretion, and inattention to the orders in 95-10. They also reveal an alarming complicity among and with cities that has delayed progress toward a new water supply. This inattention and resulting delays have resulted in the following:

1. Continuing over pumping of the Carmel River
2. Additional costs to ratepayers due to inflation.
3. The atmosphere for partnership was soiled.
4. Additional costs on ratepayers because Cal Am's high cost Coastal Water Project has no partnerships for efficiencies.

Remediation by SWRCB

Local agencies have responded to outside pressure in the past.

++Witness the energy displayed in 2001-2002 following Fred Keeley's work for the Plan B desalination option to a Carmel River Dam, and the CPUC report.

++Witness the recent pressure of CPUC deadlines for Cal Am's Coastal Water Project to inspire DRA and local water interests to plan for a lower cost and reliable alternative.

Pressure from SWRCB through a modified CDO can be effective. I propose an annual reduction of 5%, to be revisited when any new supply comes on line that can provide at least 5,000 AFY. This has the following benefits:

1. It creates pressure to act, which has worked in the past.
2. It creates pressure to cooperate, despite the recent history.
3. It immediately begins to reduce illegal over pumping.
4. It places a premium on any sizeable new water supply, which strongly encourages action.
5. It brings into play more options for new water supplies
6. It provides pressure and time to implement and adjust to greater conservation strategies, and other supply augmentations.
7. It mandates a timetable that becomes more meaningful with delay.

7/8/2008 /s/ George T. Riley